

**RECEIVED**  
**IN THE UNITED STATES DISTRICT COURT**  
**FOR THE MIDDLE DISTRICT OF ALABAMA**  
**NORTHERN DIVISION**

DEBRA P. HACKETT, CLK  
U.S. DISTRICT COURT  
MIDDLE DISTRICT ALA.)  
GREGORY BLACKMON, *on behalf of*  
*himself and all others similarly situated,*

Plaintiff,

vs.

JAUREGUI & LINDSEY, LLC,

Defendant.

) Civil Action No. *2:17-cv-610*

) **CLASS ACTION COMPLAINT AND**  
) **TRIAL BY JURY DEMAND**

**NATURE OF ACTION**

1. Plaintiff Gregory Blackmon ("Plaintiff") brings this putative class action against Defendant Jauregui & Lindsey, LLC ("Defendant") under the Fair Debt Collection Practices Act ("FDCPA"), 15 U.S.C. § 1692 *et seq.*, on behalf of himself and all others similarly situated.

**JURISDICTION, VENUE, AND STANDING**

2. This Court has jurisdiction pursuant to 15 U.S.C. § 1692k(d) and 28 U.S.C. § 1331.

3. Venue is proper before this Court pursuant to 28 U.S.C. § 1391(b), where the acts and transactions giving rise to Plaintiff's action occurred in this district, where Plaintiff resides in this district, and where Defendant transacts business in this district.

4. "In determining whether an intangible harm constitutes injury in fact, both history and the judgment of Congress play important roles." *Spokeo, Inc. v. Robins*, 136 S. Ct. 1540, 1549, 194 L. Ed. 2d 635 (2016), *as revised* (May 24, 2016). Congress is "well positioned to identify intangible harms that meet minimum Article III requirements," thus "Congress may 'elevat[e] to the status of legally cognizable injuries concrete, *de facto* injuries that were previously inadequate in law.'" *Id.* (quoting *Lujan v. Defs of Wildlife*, 504 U.S. 555, 578 (1992)).

5. “Without the protections of the FDCPA, Congress determined, the ‘[e]xisting laws and procedures for redressing these injuries are inadequate to protect consumers.’” *Lane v. Bayview Loan Servicing, LLC*, No. 15 C 10446, 2016 WL 3671467, at \*3 (N.D. Ill. July 11, 2016) (quoting 15 U.S.C. § 1692(b)). Thus, a failure to honor a consumer’s right under the FDCPA constitutes an injury in fact for Article III standing. *See id.* at \*3 (holding that a consumer “has alleged a sufficiently concrete injury because he alleges that [Defendant] denied him the right to information due to him under the FDCPA”); *see also Church v. Accretive Health, Inc.*, No. 15-15708, 2016 WL 3611543, at \*3 (11th Cir. July 6, 2016) (holding that consumer’s § 1692g claim was sufficiently concrete to satisfy injury-in-fact requirement).

6. “The Supreme Court has held time and again that the violation of a statutory right to receive information one is entitled to receive creates a concrete injury sufficient to confer standing on a plaintiff.” *Zia v. CitiMortgage, Inc.*, 210 F.Supp.3d 1334, 1343 (S.D. Fla. 2016).

7. “[E]ven though actual monetary harm is a sufficient condition to show concrete harm, it is *not* a necessary condition.” *Lane*, 2016 WL 3671467 at \*4 (emphasis in original).

#### **THE FAIR DEBT COLLECTION PRACTICES ACT**

8. Congress enacted the FDCPA to “eliminate abusive debt collection practices, to ensure that debt collectors who abstain from such practices are not competitively disadvantaged, and to promote consistent state action to protect consumers.” *Jerman v. Carlisle, McNellie, Rini, Kramer & Ulrich LPA*, 559 U.S. 573, 577 (2010) (citing 15 U.S.C. § 1692(e)).

9. The FDCPA is described as a strict liability statute which “typically subjects debt collectors to liability even when violations are not knowing or intentional.” *Owen v. I.C. Sys., Inc.*, 629 F.3d 1263, 1270 (11th Cir. 2011).

10. “A single violation of the Act is sufficient to subject a debt collector to liability under the Act.” *Lewis v. Marinosci Law Grp., P.C.*, No. 13-61676-CIV, 2013 WL 5789183, at \*2 (S.D. Fla. Oct. 29, 2013).

11. The Eleventh Circuit applies the “least sophisticated consumer” standard to determine whether a debt collector’s communication violates the FDCPA. *Jeter v. Credit Bureau, Inc.*, 760 F.2d 1168, 1175 (11th Cir. 1985).

12. This objective standard does not consider “whether the particular plaintiff-consumer was deceived or misled; instead, the question is ‘whether the ‘least sophisticated consumer’ would have been deceived’ by the debt collector’s conduct.” *Crawford v. LVNV Funding, LLC*, 758 F.3d 1254, 1258 (11th Cir. 2014) (quoting *Jeter*, 760 F.2d at 1177 n.11)).

#### **PARTIES**

13. Plaintiff Greg Blackmon (“Plaintiff”) is a natural person who at all relevant times resided in the State of Alabama, County of Chilton, and City of Clanton.

14. Plaintiff is a “consumer” as defined by 15 U.S.C. § 1692a(3).

15. Defendant, Jauregui & Lindsey, LLC (“Defendant”) is an entity who at all relevant times was engaged, by use of the mails and telephone, in the business of attempting to collect a “debt” from Plaintiff, as defined by 15 U.S.C. § 1692a(5).

16. Defendant is a “debt collector” as defined by 15 U.S.C. § 1692a(6).

#### **FACTUAL ALLEGATIONS**

17. Plaintiff is a natural person allegedly obligated to pay a debt asserted to be owed or due a creditor other than Defendant.

18. Plaintiff’s alleged obligation arises from a transaction in which the money, property, insurance, or services that are the subject of the transaction were incurred primarily for

personal, family, or household purposes—namely, a mortgage for a personal residence (the “Debt”).

19. Defendant uses instrumentalities of interstate commerce or the mails in a business the principal purpose of which is the collection of any debts.

20. Defendant regularly collects or attempts to collect, directly or indirectly, debts owed or due, or asserted to be owed or due another.

21. In connection with the collection of the Debt, Defendant sent Plaintiff a letter dated July 7, 2017.

22. A true and accurate copy of Defendant’s July 7, 2017 letter is attached to this complaint as Exhibit A.

23. The July 7, 2017 letter was Defendant’s initial communication with Plaintiff with respect to the Debt.

24. As the initial communication with respect to the Debt, Defendant’s July 7, 2017 letter attempts to contain the notices required by the FDCPA under § 1692g(a). 15 U.S.C. § 1692g(a).

25. Defendant’s July 7, 2017 letter states: “The amount of the indebtedness owed to Kodiak as of the date hereof is *approximately \$88,632.23 plus accrued interest and this firm’s fees and expenses.*” Exhibit A (emphasis added).

26. Stating that the Debt is “approximately \$88,632.23” does not meaningfully provide Plaintiff with the amount of the Debt, nor does the assertion that the disclosed amount does not include some unknown amount of interest and fees or other charges.

27. Defendant’s July 7, 2017 letter fails to state the amount of interest that had, in fact, accrued on the Debt.

28. Defendant's July 7, 2017 letter also fails to state the amount of Defendant's attorneys' fees and expenses.

29. Accordingly, the letter fails to meaningfully convey the amount of the Debt.

30. The letter further states:

Unless you dispute the validity of this debt or any portion thereof within thirty (30) days *from the date of this letter*, the debt will be assumed to be valid. If you notify this firm in writing that you dispute the validity of this debt, this firm will obtain and provide you with verification of the debt. If you request from this firm in writing the name and address of the original creditor, if different than Kodiak, this firm will provide you with the name and address of the original creditor.

Exhibit A (emphasis added).

31. The letter falsely states that Plaintiff has thirty days from the date of the letter, rather than receipt of the letter, to dispute the validity of the Debt. *See* 15 U.S.C. § 1692g(a)(3).

32. The letter also does not make clear that the Debt will be assumed valid *by Defendant*, and instead simply states it will be assumed to be valid.

33. The letter fails to disclose that any written dispute of the Debt must also be made within the thirty day dispute period in order to trigger Defendant's obligation to obtain and mail verification of the Debt. *See* 15 U.S.C. § 1692g(a)(4).

34. The letter further fails to disclose that any written request for the name and address of the original creditor must be made within the thirty day dispute period to trigger Defendant's obligation to provide such information. *See* 15 U.S.C. § 1692g(a)(5).

#### **CLASS ALLEGATIONS**

35. Plaintiff repeats and re-alleges all factual allegations above.

36. Defendant's July 7, 2017 letter is based on a form or template (the "Template").

37. The Template fails to adequately convey the amount of the debt and leaves the consumer unsure of the exact amount.

38. The Template also fails to meaningfully convey the statements required by 15 U.S.C. § 1692g(3)-(5).

39. Defendant has used the Template to send collection letters to over 40 individuals in Alabama within the year prior to the filing of the complaint in this matter.

40. Plaintiff brings this action on behalf of himself and all others similarly situated. Specifically, Plaintiff seeks to represent the following class of individuals:

All individuals in Alabama to whom Defendant sent a letter based on the Template, within one year before the date of the Complaint and in connection with the collection of a consumer debt.

41. The proposed class specifically excludes the United States of America, the State of Alabama, counsel for the parties, the presiding United States District Court Judge, the Judges of the United States Court of Appeals for the Eleventh Circuit, and the Justices of the United States Supreme Court, all officers and agents of Defendant, and all persons related to within the third degree of consanguinity or affection to any of the foregoing persons.

42. The class is averred to be so numerous that joinder of members is impracticable.

43. The exact number of class members is unknown to Plaintiff at this time and can be ascertained only through appropriate discovery.

44. The class is ascertainable in that the names and addresses of all class members can be identified in business records maintained by Defendant.

45. There exists a well-defined community of interest in the questions of law and fact involved that affect the parties to be represented. These common questions of law and fact predominate over questions that may affect individual class members. Such issues include, but are not limited to: (a) the existence of Defendant's identical conduct particular to the matters at issue;

(b) Defendant's violations of the FDCPA; (c) the availability of statutory penalties; and (d) attorneys' fees and costs.

46. Plaintiff's claims are typical of those of the class he seeks to represent.

47. The claims of Plaintiff and of the class originate from the same conduct, practice, and procedure on the part of Defendant. Thus, if brought and prosecuted individually, the claims of the members of the class would require proof of the same material and substantive facts.

48. Plaintiff possesses the same interests and has suffered the same injuries as each class member. Plaintiff asserts identical claims and seeks identical relief on behalf of the unnamed class members.

49. Plaintiff will fairly and adequately protect the interests of the class and has no interests adverse to or which directly and irrevocably conflict with the interests of other members of the class.

50. Plaintiff is willing and prepared to serve this Court and the proposed class.

51. The interests of Plaintiff are co-extensive with and not antagonistic to those of the absent class members.

52. Plaintiff has retained the services of counsel who are experienced in consumer protection claims, as well as complex class action litigation, will adequately prosecute this action, and will assert, protect and otherwise represent Plaintiff and all absent class members.

53. Class certification is appropriate under Fed. R. Civ. P. 23(b)(1)(A) and 23(b)(1)(B). The prosecution of separate actions by individual members of the class would, as a practical matter, be dispositive of the interests of other members of the class who are not parties to the action or could substantially impair or impede their ability to protect their interests.

54. The prosecution of separate actions by individual members of the class would create a risk of inconsistent or varying adjudications with respect to individual members of the class, which would establish incompatible standards of conduct for the parties opposing the classes. Such incompatible standards of conduct and varying adjudications, on what would necessarily be the same essential facts, proof and legal theories, would also create and allow the existence of inconsistent and incompatible rights within the class.

55. Class certification is appropriate under Fed. R. Civ. P. 23(b)(2) in that Defendant has acted or refused to act on grounds generally applicable to the class, making final declaratory or injunctive relief appropriate.

56. Class certification is appropriate under Fed. R. Civ. P. 23(b)(3) in that the questions of law and fact that are common to members of the class predominate over any questions affecting only individual members.

57. Moreover, a class action is superior to other methods for the fair and efficient adjudication of the controversies raised in this Complaint in that: (a) individual claims by the class members will be impracticable as the costs of pursuit would far exceed what any one plaintiff or class member has at stake; (b) as a result, very little litigation has commenced over the controversies alleged in this Complaint and individual members are unlikely to have an interest in prosecuting and controlling separate individual actions; and (c) the concentration of litigation of these claims in one forum will achieve efficiency and promote judicial economy.

**COUNT I**  
**VIOLATION OF 15 U.S.C. § 1692g(a)(1)**

58. Plaintiff repeats and re-alleges each and every factual allegation above.

59. A key provision of the FDCPA is section 1692g, which requires a debt collector to send, within five days of its initial communication with a consumer, a written notice which

provides information regarding the debt and informs the consumer of his or her right to dispute the validity of the debt, and/or request the name and address of the original creditor, within 30 days of receipt of the notice. *See* 15 U.S.C. § 1692g(a).

60. “It is not enough that the dunning letter state the amount of the debt that is due. It must state it clearly enough that the recipient is likely to understand it.” *Chuway v. Nat’l Action Fin. Servs., Inc.*, 362 F.3d 944, 948 (7th Cir. 2004).

61. Defendant violated 15 U.S.C. § 1692g(a)(1) by failing to meaningfully convey the amount of the alleged debt to Plaintiff in its July 7, 2017 letter.

WHEREFORE, Plaintiff prays for relief and judgment, as follows:

- a) Determining that this action is a proper class action, certifying Plaintiff as a class representative under Rule 23 of the Federal Rules of Civil Procedure, and designating this Complaint the operable complaint for class purposes;
- b) Adjudging that Defendant violated 15 U.S.C. § 1692g(a)(1) with respect to Plaintiff and the class he seeks to represent;
- c) Awarding Plaintiff, and the class he seeks to represent, actual damages, pursuant to 15 U.S.C. § 1692k(a)(1);
- d) Awarding Plaintiff such additional damages as the Court may allow in the amount of \$1,000, pursuant to 15 U.S.C. § 1692k(a)(2)(B)(i);
- e) Awarding such amount as the Court may allow for all other class members, without regard to a minimum individual recovery, in the amount of \$500,000 or one percent of the net worth of the debt collector, pursuant to 15 U.S.C. § 1692k(a)(2)(B)(ii);
- f) Awarding Plaintiff, and the class he seeks to represent, reasonable attorneys’ fees and costs incurred in this action pursuant to 15 U.S.C. § 1692k(a)(3);

- g) Awarding Plaintiff, and the class he seeks to represent pre-judgment and post-judgment interest as permissible by law; and
- h) Awarding such other and further relief as the Court may deem proper.

**COUNT II**  
**VIOLATION OF 15 U.S.C. § 1692g(a)(3)**

62. Plaintiff repeats and re-alleges each and every factual allegation above.

63. Defendant violated 15 U.S.C. § 1692g(a)(3) by failing to meaningfully convey to Plaintiff that unless Plaintiff disputes the validity of the alleged debt, or any portion thereof, within thirty days after receipt of the initial communication—rather than within thirty days from the date of the letter—the debt will be assumed valid by Defendant.

WHEREFORE, Plaintiff prays for relief and judgment, as follows:

- a) Determining that this action is a proper class action, certifying Plaintiff as a class representative under Rule 23 of the Federal Rules of Civil Procedure, and designating this Complaint the operable complaint for class purposes;
- b) Adjudging that Defendant violated 15 U.S.C. § 1692g(a)(3) with respect to Plaintiff and the class he seeks to represent;
- c) Awarding Plaintiff, and the class he seeks to represent, actual damages, pursuant to 15 U.S.C. § 1692k(a)(1);
- d) Awarding Plaintiff such additional damages as the Court may allow in the amount of \$1,000, pursuant to 15 U.S.C. § 1692k(a)(2)(B)(i);
- e) Awarding such amount as the Court may allow for all other class members, without regard to a minimum individual recovery, in the amount of \$500,000 or one percent of the net worth of the debt collector, pursuant to 15 U.S.C. § 1692k(a)(2)(B)(ii);

- f) Awarding Plaintiff, and the class he seeks to represent, reasonable attorneys' fees and costs incurred in this action pursuant to 15 U.S.C. § 1692k(a)(3);
- g) Awarding Plaintiff, and the class he seeks to represent pre-judgment and post-judgment interest as permissible by law; and
- h) Awarding such other and further relief as the Court may deem proper.

**COUNT III  
VIOLATION OF 15 U.S.C. § 1692g(a)(4)**

64. Plaintiff repeats and re-alleges each and every factual allegation above.

65. Congress adopted “the debt validation provisions of section 1692g” to guarantee that consumers would receive “adequate notice” of their rights under the FDCPA. *Wilson v. Quadramed Corp.*, 225 F.3d 350, 354 (3d Cir. 2000) (citing *Miller v. Payco-General Am. Credits, Inc.*, 943 F.2d 482, 484 (4th Cir. 1991)).

66. This validation requirement is a “significant feature” of the law that aimed to “eliminate the recurring problem of debt collectors dunning the wrong person or attempting to collect debts which the consumer has already paid.” See *Hernandez v. Williams, Zinman & Parham PC*, 829 F.3d 1068, 1070 (9th Cir. 2016) (citing S. Rep. No. 95-382, at 4 (1977)).

67. Defendant violated 15 U.S.C. § 1692g(a)(4) by failing to disclose that a written dispute of the debt, or any portion thereof, must be made within thirty days of Plaintiff's receipt of the letter to require Defendant to obtain verification of the alleged debt and mail a copy to Plaintiff.

WHEREFORE, Plaintiff prays for relief and judgment, as follows:

- a) Determining that this action is a proper class action, certifying Plaintiff as a class representative under Rule 23 of the Federal Rules of Civil Procedure, and designating this Complaint the operable complaint for class purposes;

- b) Adjudging that Defendant violated 15 U.S.C. § 1692g(a)(4) with respect to Plaintiff and the class he seeks to represent;
- c) Awarding Plaintiff, and the class he seeks to represent, actual damages, pursuant to 15 U.S.C. § 1692k(a)(1);
- d) Awarding Plaintiff such additional damages as the Court may allow in the amount of \$1,000, pursuant to 15 U.S.C. § 1692k(a)(2)(B)(i);
- e) Awarding such amount as the Court may allow for all other class members, without regard to a minimum individual recovery, in the amount of \$500,000 or one percent of the net worth of the debt collector, pursuant to 15 U.S.C. § 1692k(a)(2)(B)(ii);
- f) Awarding Plaintiff, and the class he seeks to represent, reasonable attorneys' fees and costs incurred in this action pursuant to 15 U.S.C. § 1692k(a)(3);
- g) Awarding Plaintiff, and the class he seeks to represent pre-judgment and post-judgment interest as permissible by law; and
- h) Awarding such other and further relief as the Court may deem proper.

**COUNT IV**  
**VIOLATION OF 15 U.S.C. § 1692g(a)(5)**

68. Plaintiff repeats and re-alleges each and every factual allegation above.

69. Defendant violated 15 U.S.C. § 1692g(a)(5) by failing to meaningfully convey to Plaintiff that a written request for the name and address of the original creditor must be made within thirty days of Plaintiff's receipt of the letter in order to require Defendant to provide such information.

WHEREFORE, Plaintiff prays for relief and judgment, as follows:

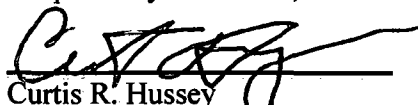
- a) Determining that this action is a proper class action, certifying Plaintiff as a class representative under Rule 23 of the Federal Rules of Civil Procedure, and designating this Complaint the operable complaint for class purposes;
- b) Adjudging that Defendant violated 15 U.S.C. § 1692g(a)(5) with respect to Plaintiff and the class he seeks to represent;
- c) Awarding Plaintiff, and the class he seeks to represent, actual damages, pursuant to 15 U.S.C. § 1692k(a)(1);
- d) Awarding Plaintiff such additional damages as the Court may allow in the amount of \$1,000, pursuant to 15 U.S.C. § 1692k(a)(2)(B)(i);
- e) Awarding such amount as the Court may allow for all other class members, without regard to a minimum individual recovery, in the amount of \$500,000 or one percent of the net worth of the debt collector, pursuant to 15 U.S.C. § 1692k(a)(2)(B)(ii);
- f) Awarding Plaintiff, and the class he seeks to represent, reasonable attorneys' fees and costs incurred in this action pursuant to 15 U.S.C. § 1692k(a)(3);
- g) Awarding Plaintiff, and the class he seeks to represent pre-judgment and post-judgment interest as permissible by law; and
- h) Awarding such other and further relief as the Court may deem proper.

**TRIAL BY JURY**

70. Plaintiff is entitled to and hereby demands a trial by jury.

Dated: September 8, 2017.

Respectfully submitted,



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